

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 344 of 2003 (SS)

Sabal Singh Mehra s/o Sri Prem Singh
Cantonment Board, Nainital Petitioner.

Versus

1. The Cantonment Board, Nainital through its
Executive Officer.
2. Executive Officer, Cantonment Board,
Nainital Respondents.

Sri D.S. Patni, Advocate for the petitioner.

Sri Tribhuwan Singh Phartiyal, Advocate for the respondents.

Dated: 1.3.2006

Hon'ble Rajesh Tandon, J.

Heard Sri D.S. Patni, counsel for the petitioner and Sri Tribhuwan Sigh Phartiyal for the respondents.

By this present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 11.06.2003 passed by respondent no. 2. Further prayer has been made for a writ of mandamus directing the respondents to declare the result on the post of Junior Clerk at Cantonment Board pursuant to the written examination dated 3.9.2000 and typing test conducted on 9.7.2001.

According to the petitioner he was appointed on 22.12.1993 as a Class IV employee in Cantonment Board, Nainital. He has stated that in a competition of Noting and Drafting conducted by the Cantonment Board, he stood in third position. The petition has submitted that he is well versed in

typing and office work and a certificate to this effect has been issued to him by the Executive Officer on 22 November 1993, which reads as under:

CERTIFICATE

Certifide that Shri Sabal Singh Mehra s/o Sri Prem Singh Mehra is serving in Cantonment Board, Nainital since 1991 as Mazdoor. He is in fact working in office and performing the duties of Peon and also doing Hindi typing work of the office. He is fit for doing office duties of Gp. 'D' and may improve as typist also if given opportunity.

I wish his success in his life and prosperity.

*Dated 22 Nov '93 CANTONMENT EXECUTIVE OFFICER
NAINITAL*

The petitioner has further submitted that in the year 1999 applications were invited by respondent no. 1 for appointment of a Junior Clerk and Assistant Teacher. The petitioner applied for the post of junior clerk. The written examination was held on 3.9.2000 and 36 candidates including the petitioner, were selected for typing test. The typing test was also conducted on 9.7.2001. The petitioner appeared in typing test and he did well. However, thereafter the petitioner was asked to re-appear in typing test vide order dated 11.6.2003.

The grievance of the petitioner is that the reasons stated for re-typing test in vague and against the rules for conduction recruitment examination.

The respondents have filed counter affidavit and has denied the allegations made in the writ petition. They have submitted that the examination was conducted according to rules and there was transparency in conducting the examination.

At that time of admission of writ petition this Court has passed the following order and stayed the declaration of the result.

“Heard Sri D.S. Patni learned counsel for the petitioner and Sri Tribhuwan Fartiyal learned counsel appearing on behalf of the respondents, who prays for and is granted two weeks time to file counter affidavit.

List thereafter.

Meanwhile the result regarding selection on the post of Junior Clerk shall not be declared.

Counsel for the petitioner has submitted that earlier typing test was conducted on 9.7.2001 but another typing test was held on 3.7.2003 after a lapse of two years and during such a long gap either typing speed may increase or decrease. The learned counsel appearing on behalf of the Cantonment Board has accepted this fact and has consented that in the circumstances of the case further typing test is not needed and result may be declared.

The petitioner is the only departmental candidate and his knowledge of typing has already been verified by the respondent authority by the above certificate.

In view of above, a writ of mandamus is issued directing the respondents to declare the result of the examination and successful candidate to given appointment forthwith.

Accordingly, the writ petition is allowed. No order as to costs.

Dated: 1.3.2006

Rajesh Tandon, J.

*Dhyani